

DEPARTMENT OF JUSTICE REGULATIONS FOR CHILD ABUSE REPORTS RECORDKEEPING

ARTICLE 1: REPORT OF CHILD ABUSE

Section 900 - Scope.

The Automated Child Abuse System (ACAS) is the centralized system for collecting reports of suspected child abuse and severe neglect pursuant to Penal Code section 11170. The ACAS is maintained by DOJ as a statewide reference file.

These regulations relate to the policies and practices of DOJ with regard to its Standard Reporting Form; its review and verification procedures for reports submitted; its notification procedures in response to reports and its procedures for processing reports submitted by reporting agencies with different investigative determinations; the scope of information released in response to valid inquiries; procedures for confirmation and notification regarding ACAS inquiries for peace officer pre-employment, TrustLine Registry, child care licensing ~~or~~ and employment, ~~or~~ and adoption and placement of children; and inquiries received from private citizens regarding their own record. These regulations also ~~require that DOJ provide an~~ identify how DOJ tracks inquiries and responses thus creating an audit trail of all inquiries resulting in possible matches, and set forth procedures for record sealing orders received from the courts.

NOTE: Authority cited: Section 11170(a)(1), Penal Code. Reference: Sections 11165.9, 11169, 11170, Penal Code.

Section 901 - Definitions.

(a) "Active Investigation" means the activities of an agency in response to a report of known or suspected child abuse. For purposes of reporting information to the Child Abuse Central Index, the activities shall include, at a minimum: assessing the nature and seriousness of the known or suspected abuse; conducting interviews of the victim(s) and any known suspect(s) and witness(es) when appropriate and/or available; gathering and preserving evidence; determining whether the incident is substantiated, inconclusive, or unfounded; and preparing a report that will be retained in the files of the investigating agency.

(b) "Audit Trail" ~~means a~~ is the method used by DOJ to track ~~of tracking~~ inquiries to ACAS to determine the requestor and the response provided. (See § 910)

(c) "Automated Child Abuse System" (ACAS) means the current system used by DOJ to electronically store reports of child abuse incidents submitted by investigating agencies. ACAS is also known as the Index and the Child Abuse Central Index. Child Abuse Central Index and the Index are the same terms as used in Penal Code section 11170.

(d) "Child" is the same term as defined in Penal Code section 11165.

(e) "Child Abuse" is the same term as defined in Penal Code section 11165.6.

(f) “Confirmation” ~~means~~ is the DOJ process of contacting the agency that submitted the report to confirm that the underlying investigative ~~file~~ report is still available and is not unfounded. (See § 908)

(g) “DOJ” means the Department of Justice.

(h) “General Neglect” is the same term as used in Penal Code section 11165.2.

(i) “Inconclusive ~~r~~Report” is the same term as defined in Penal Code section 11165.12(c). This category was originally termed “unsubstantiated report” and was renamed by Chapter 842 of the Statutes of 1997, ~~and became~~ effective January 1, 1998.

~~(j) “Index” is the same term as used in Penal Code section 11170(a). The Index is currently known referred to as the Automated Child Abuse System (ACAS).~~

~~(j)(k)~~ “~~Investigative File~~” “Investigative Report” or “Underlying Investigative Report” or “Underlying Investigative File” means original and supplemental investigative documents developed by an agency during an investigation of a child abuse incident and that resulted in a report to DOJ.

~~(k)(t)~~ “Possible Match” means DOJ staff has checked a specific name as the result of an inquiry and has, based on the name and other items of personal description (date of birth, social security number, driver’s license number, or address), matched that name to an existing report(s) in ACAS. The match is considered possible because it has not been confirmed absolutely with positive matching processes such as a fingerprint comparison.

~~(L)(m)~~ “Report” means an entry in ACAS reporting the investigation of a suspected incident of child abuse or severe neglect. All mandatory information as specified in regulation § 903 must be included for the report to be entered into ACAS. (See § 903)

~~(m)(n)~~ “Severe Neglect” is the same term as used in Penal Code section 11165.2.

~~(n)(o)~~ “Submitting Agency” means the agency that forwarded the completed summary report on which an ACAS entry is based.

~~(o)(p)~~ “Substantiated Report” is the same term as defined in Penal Code section 11165.12(b).

~~(p)(q)~~ “Suspect” means a person who has been designated as a suspect in an agency’s child abuse investigation and subsequently reported as such to DOJ.

~~(r)~~ “TrustLine Registry” means the registry established pursuant to California Education Code section 8172. Effective July 1, 1998, Education Code section 8172 is repealed by Chapter 843 of the Statutes of 1997. The TrustLine Registry will be operated by the Department of Social Services (DSS) pursuant to Health & Safety Code section 1596.60. (See § 908(b))

~~(q)(s)~~ “Unfounded” is the same term as defined in Penal Code section 11165.12(a). Unfounded

reports are not forwarded to DOJ for inclusion in the ACAS.

~~(r)(t)~~ “Unsubstantiated” means a report that is determined by a child abuse investigator not to be unfounded, but in which the findings are inconclusive and there is insufficient evidence to determine whether child abuse or neglect has occurred. (This category was renamed “inconclusive” by Chapter 842 of the Statutes of 1997, and became effective January 1, 1998.)

~~(s)(u)~~ “Verification” means the process DOJ uses to insure that the data entered into ACAS is accurately entered into ACAS. (See § 904)

~~(t)(v)~~ “Victim” means a person who has been designated as a victim in a child abuse investigation ~~one~~ report and subsequently reported as such to DOJ.

NOTE: Authority cited: Section 11170(a)(1), Penal Code. Reference: Sections 11165, 11165.2, 11165.6, 11165.9, 11165.12(a), 11165.12(b), 11165.12(c), 11169 and 11170(a), Penal Code; and Section 1596.60, Health and Safety Code.

Section 902 - Purpose of ACAS.

The purpose of ACAS is to serve as the index of investigated reports of suspected child abuse and severe neglect maintained by DOJ pursuant to Penal Code section 11170(a). The ACAS consists only of those reports of child abuse and severe neglect that meet the criteria specified in the Child Abuse and Neglect Reporting Act (Penal Code section 11164; et seq.) and that are complete as specified by these regulations. The ACAS is a reference file and is used to refer authorized individuals or entities to the underlying child abuse investigative files report maintained at the reporting agency. It is the responsibility of authorized individuals or entities to obtain and review the underlying investigative report ~~file~~ and make their own assessment of the merits of the child abuse report. They shall not act solely upon ACAS information.

NOTE: Authority cited: Section 11170(a)(1), Penal Code. Reference: Sections 11165.9, 11169, 11170(a)(1) and (2), Penal Code.

Section 903 - Standard Reporting Form for Reports of Child Abuse Maintained in ACAS.

~~(a) The following form shall be the standard reporting form for submitting summary reports of child abuse and severe neglect to DOJ:~~

~~(a)(b)~~ The “Child Abuse ~~Investigation~~ Summary Report” Fform SS 8583 is the standard reporting form required to report investigative summaries of suspected incidents of child abuse and severe neglect to ACAS. Reporting agencies shall submit Fform SS 8583 to DOJ after an active investigation has been conducted and the incident has been determined not to be unfounded. Reporting agencies must obtain and use the most recent version of the SS 8583 when submitting the report to DOJ. The most recent version of the SS 8583 must be the basis for any report in an automated format submitted to DOJ.

(1) If a report is submitted on a form pre-dating the current SS 8583, and DOJ receives an

inquiry that requires a confirmation of the report, the information on the report originally submitted must comply with the reporting requirements of the current Eform SS 8583. (See § 908)

(2) All information items on the standard report Eform SS 8583 should be completed by the investigating agency. Certain information items on the SS 8583 must be completed by the investigating agency in order for it to be considered a “retainable report” by DOJ and entered into ACAS. Reports without these items will be returned to the contributor. These information items are:

(A1) The complete name of the investigating agency and type of agency.

(B2) The agency’s report number or case name.

(C3) The action taken by the investigating agency.

(D4) The specific type of abuse.

(E5) The victim(s) name, birth date or approximate age, and gender.

(F6) Either the suspect(s) name or the notation “unknown;” birth date or approximate age, and gender.

(G7) Verification (yes, no) that an active investigation was conducted and that the victim(s) were contacted. Verification (yes, no, no suspect) that suspect(s) were contacted and verification (yes, no, no witness) that witness(es) were contacted. An explanation is required if contacts were not made.

(H8) Verification (yes, no) that the suspect was given written notice that his/her name will be placed in the Child Abuse Central Index per PC 11169(b). An explanation is required if no written notice was given.

(b)(a) The following form shall be the standard reporting form for submitting summary reports of child abuse and severe neglect to DOJ:

NOTE: Authority cited: Section 11170(a)(1), Penal Code. Reference: Sections 11165.6, 11165.9, 11165.12, 11166(i) & (j), 11168, 11169(a), 11169(b) and 11170(a)(1), Penal Code.

Section 904 - DOJ Review and Verification of Reports Submitted by CPAs of Submitted Summary Reports.

All submissions received by DOJ staff are reviewed to determine that they meet the definition of a report in these regulations. DOJ staff verifies only that the information entered into ACAS is consistent with the information as reported by the investigating agency. The DOJ presumes that the substance of the information provided is accurate and does not conduct a separate investigation to verify the accuracy of the investigation conducted by the submitting agency.

NOTE: Authority cited: Section 11170(a)(1), Penal Code. Reference: Sections 11165.9, 11169, and 11170(a)(2), Penal Code.

Section 905 - DOJ Procedures for Notification When ACAS Shows Information Relevant to a Newly Received Report.

When DOJ receives a child abuse summary report containing the name of a victim or suspect that results in a possible match to a prior report in ACAS, DOJ will do the following:

(a) Notify the reporting agency of a prior report in ACAS in which there is a possible victim or suspect match. The notification will include the following information on the prior report in the Index: the name of the reporting agency; the report number; and the date of the report.

(b) Notify any agency that submitted a prior report in ACAS that DOJ has received a new report containing a possible victim or suspect match to the report submitted previously by that agency.

(c) If the new report contains a suspect match to a prior report, notify the agency submitting the prior report that if its report was either unsubstantiated or inconclusive, it must be retained for at least ten (10) years from the date of the new report to DOJ.

(d) The notifications set forth in (a) through (c) will be made even if the agency submitting the new report is the same agency that submitted the prior report. ~~All notifications will be made as soon as possible, but not later than three (3) working days after the new report is entered into ACAS~~

(e) All notifications will be made as soon as possible, but not later than three (3) working days after the new report is entered into ACAS.

NOTE: Authority cited: Section 11170(a)(1), Penal Code. Reference: Sections 11165.9, 11169, 11170(a)(3) and 11170(b)(1), Penal Code.

Section 906 - DOJ Procedures for Processing Reports Submitted by Agencies with Different Investigative Determinations.

When DOJ receives separate reports from different agencies on the same incident of child abuse and severe neglect with different investigative determinations, DOJ will make a notation in ACAS of the different determinations. The agencies reporting the incidents will be notified in writing of

the different determinations.

NOTE: Authority cited: Section 11170(a)(1), Penal Code. Reference: Sections 11165.9 and 11170(a)(2), Penal Code.

Section 907- ACAS Information Released in Response to Inquiries.

The information contained in the reports in ACAS is confidential, and is disclosed by DOJ staff only to those individuals and entities who are authorized by Penal Code sections 11170 and 11170.5 and any other provisions of law. These include:

(a) An agency conducting an active investigation of child abuse, or a district attorney who makes a request, will be provided all information in ACAS pertaining to the specific individual(s) being investigated. An agency conducting an active investigation of child abuse may request, and be provided, ACAS information prior to completion of the investigation and submission of the report required by Penal Code section 11169, if the information is needed for purposes of the current investigation. Such requests for information will receive a response from DOJ within one working day of receipt.

(b) Persons or entities who are making inquiries for purposes of pre-employment background investigations for peace officers, child care licensing or employment, adoption, or child placement purposes will be provided suspect information. No information on victims will be provided. If there are multiple possible matches only the possible name match that is closest to that of the inquiry will be provided. After matching the suspect's name, other items of personal description will be used to determine the closest possible match.

(c) Prior to July 1, 1998, persons or entities who made inquiries for TrustLine Registry purposes pursuant to Education Code section 8172 were provided only suspect information from substantiated reports in the Index regarding the person who is the subject of the inquiry. Since July 1, 1998, when the administrative authority for TrustLine transferred to DSS, suspect information from all reports (substantiated and inconclusive) in the Index is provided to DSS regarding the person who is the subject of the inquiry, pursuant to Health and Safety Code section 1596.877. If there are multiple possible matches, only the possible name match that is closest to that of the inquiry will be provided. After matching the suspect's name, other items of personal description will be used to determine the closest possible match. No information on victims will be provided.

NOTE: Authority cited: Section 11170(a)(1), Penal Code. Reference: Sections 11165.9, 11167.5, 11169, 11170, 11170.5 and 11174, Penal Code; Sections 1522.1, 1596.60 and 1596.877, Health and Safety Code; and Section 8172, Education Code (repealed July 1, 1998).

Section 908 - Procedure for Confirmation of ACAS Information for Purposes of Peace Officer Employment, TrustLine Registry, Child Care Licensing or Employment, or Adoption Purposes, for or Placement of Children, and for When a Private Citizen Inquires About His/Her Own Record.

(a) ~~The following form letter on appropriate Department of Justice letterhead will be used to~~

request confirmation of information in the ACAS:

~~(a)(b)~~ When an inquiry is received for non-criminal investigations, including but not limited to pre-employment checks for peace officers, TrustLine Registry, child care licensing or employment, adoption purposes, or placement of children (with the exception of temporary placement of children in emergency situations), or when a written and notarized request [see Penal Code section 11170(e)] is received from a private citizen to determine if he or she is listed in ACAS, and the inquiry results in a possible match to a suspect in ACAS, DOJ staff will make written contact with the agency that submitted the report to confirm that the underlying investigative file report is still available, and that it the report submitted to DOJ meets current statutory and regulatory requirements for retention and dissemination, and that the report has not been determined to be unfounded. ~~If the agency confirms that the investigative file is still available, meets current statutory and regulatory requirements for retention and dissemination, and that the report has not been determined to be unfounded, DOJ staff will release the information to the requesting agency.~~

(1) In the case of an inquiry for purposes of a non-criminal investigation, if the agency confirms that the underlying investigative report is still available, that the report submitted to DOJ meets current statutory and regulatory requirements for retention and dissemination, and that the report has not been determined to be unfounded, DOJ staff will release the information to the requesting agency.

(A) If the submitting agency advises DOJ that the underlying investigative report is no longer available, or that the report submitted to DOJ does not meet current statutory and regulatory requirements for retention and dissemination, or that the report has been determined to be unfounded, or if the submitting agency does not respond to the written notification within thirty days, DOJ staff will advise the requesting agency that there is no match to any report on file. DOJ will immediately delete the ACAS entry and destroy the associated paper records.

(2) In the case of a citizen inquiry, if the agency confirms that the underlying investigative report is still available, that the report submitted to DOJ meets current statutory and regulatory requirements for retention and dissemination, and that the report has not been determined to be unfounded, DOJ staff will notify the citizen in writing that he/she is listed in ACAS as a suspect or victim and provide the name of the submitting agency, the report number, and the date of the report. DOJ staff will also notify the citizen of all non-criminal investigation disseminations of his/her record including the date of the dissemination, the agency to which the record was disseminated, and the purpose of the dissemination of his/her record.

(A) If the submitting agency advises DOJ that the underlying investigative report is no longer available, or that the report submitted to DOJ does not meet current statutory and regulatory requirements for retention and dissemination, or that the report has been determined to be unfounded, DOJ staff will advise the citizen of that fact in writing. The citizen will also be advised that DOJ will immediately delete the report from ACAS, and after thirty days will destroy the associated paper records. DOJ, in accord, will immediately delete the ACAS entry and in thirty days, destroy

the associated paper records.

(B) If the submitting agency cannot confirm the availability of the underlying investigative report, or that the report submitted to DOJ meets current statutory and regulatory requirements for retention and dissemination, or that the report has not been determined to be unfounded, or if the submitting agency does not respond to the written notification within thirty days, DOJ staff will advise the citizen in writing:

(1) that ACAS does have an entry, the name of the reporting agency, the report number, and the date of the report;

(2) that DOJ has contacted the reporting agency, but the agency has not or cannot confirm the availability of the underlying investigative report, that the report submitted to DOJ meets current statutory and regulatory requirements for retention and dissemination, and that the report has not been determined to be unfounded;

(3) that the citizen should contact the reporting agency directly if further information is needed; and

(4) that DOJ will immediately delete the entry in ACAS and after thirty days will destroy the associated paper records. DOJ, in accord, will immediately delete the ACAS entry and in thirty days destroy the associated paper records.

~~If the submitting agency advises DOJ that the report has been determined to be unfounded, that the investigative file no longer exists, or that the investigative file does not meet current statutory and/or regulatory requirements for retention and dissemination, DOJ staff will advise the requesting agency that there is no match to any report on file.~~

~~If the submitting agency cannot confirm the availability of the investigative file whether it has been determined to be unfounded, or does not respond to the written notification within thirty days, DOJ staff will advise the requesting agency that it is unable to confirm a match to any report on file.~~

~~If the submitting agency advises DOJ that the report has been determined to be unfounded, that the investigative file no longer exists, that the investigative file does not meet current statutory and/or regulatory requirements for retention and dissemination, or does not respond to the written notification within thirty days, DOJ will delete the ACAS entry and destroy the associated paper records.~~

~~(c) When an inquiry is received from a private citizen to determine if he or she is listed in ACAS, and the request is in writing and is notarized as specified in Penal Code section 11170(e), and the inquiry results in a possible match to a suspect or a victim in ACAS, DOJ staff will make written contact with the agency that submitted the report to confirm that the investigative file is still available, that the report has not been determined to be unfounded, and that it meets current statutory and/or regulatory requirements for retention and dissemination. If the agency confirms that the investigative file is still available and that the report has not been determined to be unfounded and~~

that it meets current statutory and/or regulatory requirements for retention and dissemination, DOJ staff will notify the citizen in writing that he/she is listed in ACAS as a suspect or a victim, and provide the report number, the date of the report and the submitting agency. DOJ staff will also notify the citizen of all non-criminal investigation disseminations of his/her record including the date of the dissemination, the agency submitting the request, and the purpose of the dissemination of his/her record.

If the submitting agency advises DOJ that the investigative file has been determined to be unfounded, or no longer exists, DOJ staff will advise the citizen in writing of that fact and he/she will be provided the name of the agency that submitted the report. The citizen will also be advised that DOJ staff will delete the report from ACAS and, after a thirty day period from the date of the written notification, DOJ will destroy any associated paper records.

If the submitting agency cannot confirm the availability of the investigative file or whether it has been determined to be unfounded, DOJ staff will advise the citizen in writing:

(1) That ACAS does have an entry and will provide the name of the reporting agency, the report number and the date of the report;

(2) That DOJ has contacted the reporting agency but the agency cannot confirm the availability of the investigative file;

(3) That the citizen should contact the reporting agency directly if further information is needed, and

(4) That DOJ will delete the entry in ACAS and after a thirty day period from the date of the written notification, DOJ will destroy the report and any associated paper records.

(b) The following form letter will be used to request confirmation of information in the ACAS:

NOTE: Authority cited: Section 11170(a)(1), Penal Code. Reference: Sections 11165.11, 11167.5(b)(11), 11170(e), 11170.5, and 11170.6, Penal Code; and Section 1798.25, Civil Code.

Section 909. Notification in Response to Inquiries to ACAS Pertaining to Peace Officer Employment, TrustLine Registry, Child Care Licensing and Employment, Adoptions or and Placement of Children.

Whenever a possible name match with a suspect is made on an ACAS report in response to

inquiries for non-criminal investigations, including but not limited to pre-employment checks for peace officers, TrustLine Registry, child care licensing or employment, and adoptions or the placement of children (with the exception of temporary placement of children in emergency situations) and DOJ staff has confirmed that the underlying investigative report is still available, and that ~~it~~ the report submitted to DOJ meets current statutory and regulatory requirements for retention and dissemination, and that the report has not been determined to be unfounded, DOJ will release the possible match information to the inquiring agency. Concurrent with the release to the inquiring agency, DOJ staff will send notification to the individual whose name constitutes the possible match. This notice will advise the individual that the information was provided to the inquiring agency and will include the name of the reporting agency, the date of the report, and the report number.

NOTE: Authority cited: Section 11170(a)(1), Penal Code. Reference: Sections 11170(b)(5), and 11170(c) Penal Code.

Section 910. Audit Trail of Information Released from ACAS.

DOJ staff will maintain a ~~log~~ record of all inquiries that result in a possible name match to a ~~record report~~ maintained in ACAS. ~~The log entry~~ This record will include the response given. This ~~log record~~ will establish the ACAS audit trail. A citizen making an inquiry regarding his/her own record will be informed of all non-criminal investigation disseminations of his/her record including the date of the dissemination, the agency submitting the request, and the purpose of the dissemination.

NOTE: Authority cited: Section 11170(a)(1), Penal Code. Reference: Section 11170(a), Penal Code; and Section 1798.25, Civil Code.

Section 911 - Processing of Record Sealing Orders .

When orders are received from courts ordering the sealing of juvenile records per Welfare and Institutions Code sections 389 and 781, and/or for the sealing of adult records per Penal Code section 851.8, and there is a possible match to a juvenile or adult record in ACAS, the sealing order will be processed consistent with the advice provided by legal counsel.

NOTE: Authority cited: Section 11170(a)(1), Penal Code. Reference: Sections 389 and 781, Welfare and Institutions Code; and Section 851.8, Penal Code.